

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MARYLAND  
Baltimore Division**

In re:

USINTERNETWORKING, INC., *et al.*,  
Debtors.

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Case No.: 02-5-0215-SD  
Through 02-5-0219-SD  
Chapter 11  
(Jointly Administered  
under Case No.: 02-5-0215-SD)

\* \* \* \* \*

**DEBTORS' SECOND AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION**

March 19, 2002

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**Debtors' Plan**

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### **Exhibits**

A	-	Form of Amended Equipment Lease Agreement
B	-	Form of Substitute Equipment Lease Agreement
C	-	Amended Bylaws of Reorganized USi
D	-	Amended Certificate of Incorporation of Reorganized USi
E	-	Plan Notes and Plan Note Indenture
F	-	Secondary Plan Notes and Secondary Plan Note Indenture
G	-	Substitute Plan Notes and Substitute Plan Note Indenture
H	-	New Warrants

### **Attachments**

1	-	List of Subsidiary Debtors
2	-	Conditional Subscription Agreement
3	-	Allowed amount of Equipment Lease Claims and Equipment Lease Secured Claims

## DEBTORS' SECOND AMENDED JOINT CHAPTER 11 PLAN

USinternetworking, Inc., and its subsidiaries listed on Attachment 1 hereto, the Debtors and Debtors in Possession in the above-captioned cases, propose the following second amended joint chapter 11 plan pursuant to § 1121(a) of the Bankruptcy Code:

### ARTICLE 1.

#### DEFINITIONS AND RULES OF INTERPRETATION

##### 1.01 Definitions. As used herein:

*"Adequate Protection Payments"* means any and all payments made on account of (i) a Secured Claim or (ii) an Equipment Lease after the Filing Date and prior to the Effective Date, including all payments made at any time prior to the Effective Date pursuant to any order of the Bankruptcy Court relating to provision of adequate protection to the Holders of such Claims or pursuant to § 365(d)(10) of the Bankruptcy Code.

*"Administrative Expense"* means a cost or expense of administration of the Chapter 11 Case allowable under § 503(b) of the Bankruptcy Code, including (i) Fee Claims, (ii) any fees assessed against the Estate under 28 U.S.C. § 1930, (iii) Ordinary Course Administrative Expenses, (iv) Approved Chapter 11 Liabilities, and (v) Reclamation Claims.

*"Allowed"* means with respect to a Claim (other than an Administrative Expense) that the Claim:

A. Either (i) is set forth in a proof of claim that was timely filed or by order of the Bankruptcy Court is not and will not be required to be filed, or (ii) has been or hereafter is listed in the Schedules as liquidated in amount and not disputed or contingent and the claimant has not filed a proof of claim in an amount different than that listed in the Schedules, or (iii) is to be allowed pursuant to this Plan in an amount set forth herein; and

B. Either (i) no objection to the allowance thereof has been interposed within the applicable period of time fixed by this Plan, the Bankruptcy Code, the Bankruptcy Rules or the Bankruptcy Court, or (ii) such an objection is so interposed and such Claim has been allowed by a Final Order;

and means, with respect to an Administrative Expense, an Administrative Expense that becomes Allowed as set forth in Section 2.01.

*"Amended Equipment Lease Agreement"* means an agreement in substantially the form of Exhibit A to this Plan executed and delivered by Reorganized USi in favor of the Holder of an Equipment Lease Secured Claim, amending and restating the terms of the Equipment Lease Agreement governing such Holder's Equipment Lease Claim.

*"Amended Bylaws"* means the bylaws of Reorganized USi, in substantially the form of Exhibit C to this Plan.

*“Amended Certificate of Incorporation”* means the certificate of incorporation of Reorganized USi, in substantially the form of Exhibit D to this Plan.

*“Approved Chapter 11 Liabilities”* means any and all liabilities that have, with the approval of the Bankruptcy Court, been assumed by or otherwise become binding upon the Debtors in the Chapter 11 Case at any time through the Effective Date and includes, so long as approved by the Bankruptcy Court, any such liability relating to (i) any DIP Financing, (ii) all contracts and other obligations undertaken by or imposed upon the Debtors at any time during such period, and (iii) all unexpired leases and executory contracts entered into prior to the Filing Date and assumed and not assigned by the Debtors at any time during such period.

*“Bankruptcy Code”* means Title 11 of the United States Code, as amended from time to time.

*“Bankruptcy Court”* means the United States Bankruptcy Court for the District of Maryland, Baltimore Division.

*“Bankruptcy Rules”* means the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, as amended and supplemented from time to time.

*“Binding Fee Estimate”* has the meaning given in Section 2.01(d).

*“Business Day”* means any day other than a Saturday, Sunday or “legal holiday” as defined in Bankruptcy Rule 9006(a).

*“Cash”* means legal tender of the United States of America.

*“Cancelled Security”* means the Convertible Subordinated Notes, the Conklin & Conklin Note and any other note, bond, debenture, stock certificate or other instrument or investment security evidencing or representing an Impaired Claim or Impaired Interest outstanding immediately prior to the Effective Date.

*“Catch-Up Distribution”* has the meaning given in Section 10.01(b).

*“Cause of Action”* means any action, cause of action, suit, account, controversy, agreement, promise, right to legal remedy, right to an equitable remedy, right to payment and claim, whether known or unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, unsecured and whether asserted or assertable directly or derivatively, in law, equity or otherwise.

*“Chapter 11 Case”* means, collectively, the cases under chapter 11 of the Bankruptcy Code voluntarily commenced by the Debtors on the Filing Date.

*“Claim”* means any “claim,” as that term is defined in § 101(5) of the Bankruptcy Code, against any of the Debtors or the Estate.

*“Claims Agent”* means Logan & Company, Inc., located at 546 Valley Road, 2<sup>nd</sup> Floor, Upper Montclair, New Jersey 07043.

*“Claims Entitled to the Plan Distribution”* means Allowed General Unsecured Claims, Allowed Senior Creditor Claims and Allowed Convertible Subordinated Note Claims.

*“Class”* means a group of Claims or Interests as classified under this Plan.

*“Conditional Subscription Agreement”* means the commitment of Investor, subject to the conditions set forth therein, to subscribe for and purchase on the Effective Date for the Subscription Price, payable to Reorganized USi in Cash on the Effective Date, the New Common Stock to be issued by Reorganized USi pursuant to Section 8.01 of this Plan. A copy of the Conditional Subscription Agreement (without exhibits and schedules) is attached hereto as Attachment 2.

*“Confirmation Date”* means the date and time on which the Confirmation Order is entered on the docket maintained by the Clerk of the Bankruptcy Court.

*“Confirmation Hearing”* means the hearing on the confirmation of the Plan.

*“Confirmation Order”* means an order entered by the Bankruptcy Court confirming the Plan.

*“Conklin & Conklin Note”* means the 10% Promissory Note for \$2,000,000 dated October 8, 1999 from USi to Conklin & Conklin, Inc.

*“Conklin & Conklin Note Claims”* means any and all Claims on account of the Conklin & Conklin Note, which Claims shall be treated as (i) an Allowed Miscellaneous Secured Claim in the amount of \$100,000 and (ii) an Allowed Senior Creditor Claim in the amount of \$1,900,000, and otherwise disallowed.

*“Convenience Claim”* means any Allowed General Unsecured Claim against the Debtors in the amount of \$2,500 or less; provided, however, that if the Holder of an Allowed General Unsecured Claim in amount greater than \$2,500 elects on such Holder’s ballot for voting on the Plan (i) Convenience Claim treatment and (ii) to reduce such Claim to \$2,500 in accordance with Section 5.07(b) hereof, such Claim shall be treated as a Convenience Claim for all purposes.

*“Convertible Subordinated Notes”* means the 7% Convertible Subordinated Notes Due 2004 outstanding under the Convertible Subordinated Note Indenture.

*“Convertible Subordinated Note Claims”* means any and all Claims on account of the Convertible Subordinated Notes or the indebtedness evidenced thereby (other than Convertible Subordinated Note § 510(b) Claims), whether for principal or interest or otherwise, or any conversion thereof or any right of conversion with respect thereto or any right to receive consideration on account of the conversion thereof.

*“Convertible Subordinated Note § 510(b) Claims”* means, to the extent required or permitted by § 510(b) of the Bankruptcy Code to be subordinated to the Convertible Subordinated Note Claims, any and all Claims arising from or relating to any issuance, purchase or sale of the Convertible Subordinated Notes or any rescission thereof or any right of reimbursement or contribution with respect thereto or otherwise arising from or relating to the

Convertible Subordinated Notes or the Convertible Subordinated Note Indenture (except any Indenture Trustee Prepetition Claim) or any instrument, agreement, breach of contract, breach of legal duty, tort, wrongful conduct, act, omission or event in any respect or in any manner arising therefrom or related thereto.

*“Convertible Subordinated Note Indenture”* means the Indenture dated as of October 29, 1999 between USi and The Bank of New York, as trustee.

*“CSFB Fee”* means a \$4,000,000 fee payable by the Debtor to Credit Suisse First Boston Corporation pursuant to a letter agreement dated December 18, 2001, in connection with consummation of certain transactions, as defined therein.

*“Debtors”* means, collectively, USinternetworking, Inc., a Delaware corporation, and each of its subsidiaries listed on Attachment 1 hereto.

*“Debtors in Possession”* means the Debtors as debtors in possession in the Chapter 11 Case.

*“DGCL”* means the Delaware General Corporation Law, as amended.

*“DIP Financing”* means any and all loans, letters of credit and other indebtedness for money borrowed and related contractual obligations incurred by the Debtors, with the approval of the Bankruptcy Court, at any time in the period from the Filing Date to the Effective Date but shall, in any event, not include any (i) Claim that is not an Administrative Expense, (ii) Fee Claim, (iii) fees assessed against the Estate under 28 U.S.C. § 1930, (iv) Ordinary Course Administrative Expense, (v) contract or other obligation undertaken by or imposed upon the Debtors at any time after the Filing Date that do not relate to the incurrence of indebtedness for money borrowed, (vi) unexpired lease or executory contract entered into prior to the Filing Date and assumed by the Debtors at any time prior to the Effective Date, or (vii) Reclamation Claim.

*“DIP Financing Payout”* means the payment in full of all Allowed Administrative Expenses for amounts outstanding as or on account of any DIP Financing.

*“Directors and Officers”* means any and all present and former directors and officers of the Debtors.

*“Disclosure Statement”* means the disclosure statement concerning this Plan distributed to Holders of Claims entitled to vote for the purpose of acceptance or rejection of this Plan in accordance with § 1126(b) of the Bankruptcy Code and Bankruptcy Rule 3018.

*“Disputed”* means, in respect of any Claim, that such Claim has been asserted or filed but has not been Allowed, whether or not such Claim is then being prosecuted or opposed.

*“Effective Date”* means the date and time on which all of the conditions set forth in Section 13.01 have been satisfied, but not earlier than the eleventh day after the Confirmation Order is entered.



*“Employee Stock Incentive Program”* means any program or transaction (i) approved by the directors of Reorganized USi appointed pursuant to Section 8.03, or their successors, for the issuance of New Common Stock, or options or warrants to acquire New Common Stock, to one or more officers and employees of Reorganized USi or pursuant to a stock incentive plan established for the benefit of any such officers or employees, (ii) implemented by Investor and providing for the issuance of common stock in Investor, or options or warrants to acquire such common stock in Investor, to any such officers and employees, or (iii) any such similar program or transaction.

*“Entity”* means any individual, corporation, limited or general partnership, limited liability company, joint venture, association, joint stock company, estate, entity, trust, trustee, United States trustee, unincorporated organization, government, governmental unit (as defined in the Bankruptcy Code), agency or political subdivision thereof.

*“Equipment Lease Claims”* means any and all Claims arising under or in respect of any of the Equipment Leases or any promissory note issued thereunder or the indebtedness evidenced thereby or any instrument, agreement, breach of contract, breach of legal duty, tort, wrongful conduct, act, omission or event in any respect and in any manner arising therefrom or related thereto and specifically includes, but is not limited to, all Claims asserted or alleged in that certain lawsuit initiated against USi by Wells Fargo Equipment Finance Inc. (Charter) prior to the Filing Date.

*“Equipment Lease Deficiency Claims”* means, in the case of (i) Equipment Lease Claims treated under Section 5.01, Alternative A, the amount specified in Attachment 3 to the Plan in accordance with Section 5.05(a)(1)(i), and (ii) Equipment Lease Claims treated under Section 5.01, Alternative B, an amount determined in accordance with Section 5.05(a)(1)(ii).

*“Equipment Leases”* means the lease documents (including any schedules related thereto) giving rise to the Equipment Lease Claims identified in Attachment 3 to the Plan.

*“Equipment Lease Secured Claims”* means, in the case of each Equipment Lease Claim, the amount of such Equipment Lease Claim that is a Secured Claim, as Allowed pursuant to Section 5.01 I. (a) or Section 5.01 II. (a).

*“Estate”* means, collectively, the bankruptcy estates created by the commencement of the Chapter 11 Case.

*“Fee Claim”* means a Claim under § 330(a), § 331 or § 503(b) of the Bankruptcy Code for compensation for professional services rendered and reimbursement of expenses in the Chapter 11 Case.

*“Filing Date”* means January 7, 2002.

*“Final Order”* means an order or judgment entered on the docket by the Clerk of the Bankruptcy Court or any other court exercising jurisdiction over the subject matter and the parties (i) that has not been reversed, stayed, modified or amended, (ii) as to which no appeal, certiorari proceeding, reargument or other review or rehearing has been requested or is still pending, (iii) as to which the time for filing a notice of appeal or petition for certiorari or request

for reargument or further review or rehearing has expired and (iv) in the event that an appeal, writ of certiorari, reargument, rehearing or new trial has been sought, as to which (a) such order shall have been affirmed by the highest court to which such order is appealed or (b) certiorari has been denied as to such order, or (c) reargument or rehearing or new trial from such order shall have been denied, and the time to take any further appeal, petition for certiorari, or move for reargument, rehearing or new trial shall have expired without such actions having been taken.

*“General Unsecured Claims”* means all Claims of the type specified in § 502(g), § 502(h) and § 502(i) of the Bankruptcy Code, all Pre-Petition Indemnification Claims (except those Pre-Petition Indemnification Claims, if any, that are subordinated pursuant to § 510(b) or (c) of the Bankruptcy Code), all Indenture Trustee Prepetition Claims, and all other Claims that are not Administrative Expenses, Priority Tax Claims, Miscellaneous Priority Claims, Equipment Lease Secured Claims, Senior Creditor Claims, Miscellaneous Secured Claims, Convenience Claims (except for purposes of defining Convenience Claims), Convertible Subordinated Note Claims, Convertible Subordinated Note § 510(b) Claims, Interdebtor Claims, Claims classified as Interests, or Section 510(c) Claims.

*“Holder”* means, in respect of any Claim or any Interest, the holder or owner of, or person otherwise entitled to enforce, such Claim or such Interest.

*“Impaired”* means any Claim or Interest that is impaired within the meaning of § 1124 of the Bankruptcy Code.

*“Indemnification Contracts”* has the meaning given in Section 12.06.

*“Indenture Trustee”* means the Bank of New York, solely in its capacity as Indenture Trustee under the Convertible Subordinated Note Indenture.

*“Indenture Trustee Prepetition Claim”* means a Claim for fees, expense reimbursements and other amounts owed to the Indenture Trustee, to the extent such amounts were accrued and unpaid on the Filing Date.

*“Initial Distribution”* has the meaning given in Section 10.01(a).

*“Interdebtor Claims”* means any Claim held by a Debtor against another Debtor.

*“Interests”* means (i) any and all equity or ownership interests in any of the Debtors and all stock certificates and other investment securities, whether or not certificated, representing any such equity or ownership interest and any and all options, warrants, subscription agreements and contractual rights to acquire any such equity or ownership interest, (ii) pursuant to § 510(b) of the Bankruptcy Code, all Claims arising from or relating to any issuance, purchase or sale of any such securities or any rescission thereof or any right of reimbursement or contribution with respect thereto or otherwise arising from or relating to of any instrument, agreement, breach of contract, breach of legal duty, tort, wrongful conduct, act, omission or event in any respect or in any manner arising therefrom or related thereto, including but not limited to all Claims asserted or alleged in or arising from or related to transactions at issue in that certain action entitled *Weizel V. USinternetworking, Inc., et al.* (01-CV-9348) commenced in the United States District